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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)	
WEBBER MACHINE WORKS,)	
)	
Appellant,)	PCHB No. 79-130
)	
v.)	FINAL FINDINGS OF FACT
)	CONCLUSIONS OF LAW AND
SOUTHWEST AIR POLLUTION)	ORDER
CONTROL AUTHORITY,)	
)	
Respondent.)	

This appeal of a \$250 civil penalty for violation of WAC 173-400, excessive visible emissions, came before the Pollution Control Hearings Board in Vancouver, Washington, on November 30, 1979. Nancy E. Curington, administrator, presided.

By agreement of the parties, appellant was not represented at the hearing, but offered a letter on its behalf. Respondent was represented by its attorney, James D. Ladley.

Having heard the testimony, having examined the exhibits and

1 having considered the contentions of the parties, the Board comes to
2 these

3 FINDINGS OF FACT

4 I

5 Pursuant to RCW 43.21B.260, respondent has filed with the Board a
6 certified copy of its Regulations and amendments thereto, which are
7 noticed.

8 II

9 On July 12, 1979 respondent's inspector observed visible emissions
10 emanating from the roof of appellant's premises. Between 10:04 a.m.
11 and 10:19 a.m., the inspector observed 15-1/4 minutes of opacity
12 exceeding 20%, ranging from 20% to more than 60%. The source of the
13 emission was a wood fire boiler being used as an incinerator for
14 disposing of wood scraps. The inspector issued a field notice of
15 violation to appellant's employee, and told him that corrective action
16 had to be taken immediately. On July 20, 1979 respondent sent by
17 certified mail to the appellant a Notice of Violation and \$250 civil
18 penalty.

19 III

20 Appellant has no permit for the wood fire boiler allowing it to be
21 used as an incinerator. The furnace has not been used in many years.
22 Appellant has not previously been cited by respondent.

23 IV

24 WAC 173-400-040 prohibits any person from causing or permitting an
25 emission for more than three minutes in any one hour, of an air
26 contaminant from any source, exceeding 20% opacity.

27 FINAL FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

1 WAC 173-400-030 defines "air contaminant" as "dust, fumes, mist,
2 smoke, other particulate matter, vapor, gas, odorous substance, or any
3 combination thereof."

4 V

5 Any Conclusion of Law which should be deemed a Finding of Fact is
6 hereby adopted as such.

7 From these Findings the Board comes to these

8 CONCLUSIONS OF LAW

9 I

10 Appellant violated WAC 173-400 by causing an emission (smoke) from
11 its wood fire boiler in excess of 20% opacity for more than three
12 minutes (15-1/4 minutes) out of the 16 minutes of observation on July
13 12, 1979.

14 II

15 Appellant was responsible for the emissions on the date in
16 question; however, appellant has no record of prior violations issued
17 by respondent. Consequently, the \$250 civil penalty should be
18 affirmed, but \$125 of it should be suspended.

19 III

20 Any Finding of Fact which should be deemed a Conclusion of Law is
21 hereby adopted as such.

22 From these Conclusions, the Board enters the following

23 ORDER

24 The \$250 civil penalty is affirmed, provided, however, that \$125
25 is suspended.

26 FINAL FINDINGS OF FACT
27 CONCLUSIONS OF LAW AND ORDER

1 DATED this 5th day of March, 1980.

2 POLLUTION CONTROL HEARINGS BOARD

3 Nat W. Washington
4 NAT W. WASHINGTON, Chairman

5 Chris Smith
6 CHRIS SMITH, Member

7 David Akana
8 DAVID AKANA, Member

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26 FINAL FINDINGS OF FACT
27 CONCLUSIONS OF LAW AND ORDER